

Chapter V

Case Studies of Non-United States Forcible Protection of Nationals Abroad

There have been at least 15 instances since the adoption of the United Nations Charter in 1945 where legal commentators have claimed that the doctrine of “protection of nationals abroad” has, or could have, been invoked by States other than the United States to justify forcible measures undertaken in other States.¹ In most of these cases, the State involved relied primarily upon a government request or an international agreement and only secondarily, if at all, upon the protection of nationals doctrine to justify its actions. Moreover, even when a State invoked the doctrine it rarely advanced specific international law arguments justifying it. The principal exception occurred during the Suez Crisis in 1956, when Great Britain claimed, *inter alia*, that its actions against Egypt were taken to protect the lives and property of British nationals and as such was an exercise of its inherent right of self-defense under Article 51 of the UN Charter.²

Since the Suez crisis there has been very little discussion in international or national forums about the legality of a State’s use of forceful means to protect its nationals in another State, aside from various U.S. forays into other countries. The extended debate over Israel’s Entebbe operation being a rare exception.

While the international law discourse emanating from these instances is scant, and the data about them often fragmentary, they serve to round out the international perspective showing that the United States is not alone in supporting and, more importantly perhaps, actually invoking the “forcible protection of nationals” doctrine.³

A. Suez Crisis. 1956.

Great Britain has justified its 1956 action in the Suez Crisis as necessary for the protection of its nationals. Selwyn Lloyd, Secretary of State for Foreign Affairs, argued that “self-defense undoubtedly includes a situation where the lives of the State’s nationals abroad are in imminent danger.”⁴ Asked what armed attack had occurred against Great Britain to justify the invocation of Article 51 of the UN Charter, Mr. Lloyd maintained that the British government was not foreclosed from taking action to “protect the lives of British subjects abroad unless and until they are expressly authorized by the United Nations to do so.”⁵ He countered that “it would be a travesty of the Charter to say that no intervention can take place until our nationals are actually being attacked and perhaps killed.”⁶ His comments included three criteria for when a protection of nationals operation would meet the requirements of customary international law. “The first is where there is an imminent threat of injury to our nationals. . . . The second is where there is a failure or inability on the part of the territorial sovereign to protect the nationals in question. The third is where the measures of protection are strictly confined to the object of protecting the nationals against injury.”⁷ These situations are reflected in the self-defense portions of articles 39, 40 and 41 of the UN Charter.

During UN debates, however, other goals also were emphasized, although Great Britain consistently invoked the protection-of-nationals rationale. In the words of Sir Pierce Dixon, the British representative to the United Nations, “British and French lives must be safeguarded. I again emphasize. . . that we should certainly not want to keep any forces in the area for one moment longer than is necessary to protect our nationals, to help bring the fighting to an end and to deal with the very real danger of fighting across the Canal.”⁸ This justification for the British operation at Suez has been dismissed by almost all commentators as utterly without merit and illustrative of how the right of forcible protection may be open to abuse.⁹

B. Belgium in the Congo. 1960.

The Congo gained its independence from Belgium on 30 June 1960. On 5 July, Congolese troops mutinied and attacked Belgian subjects and other Europeans. Belgian paratroops entered the Congo on 10 July to evacuate Belgian nationals and other foreigners.¹⁰ The next day, the provincial government of Katanga proclaimed its independence. The central government, in a letter to the UN Secretary-General reacting to the Belgian action and the Katangese

secession, requested military assistance from the United Nations and claimed that the dispatch of Belgian troops to the Congo violated the treaty of friendship that the two countries had signed on 29 June 1960. Under the terms of that treaty, Belgian troops could intervene only at the express request of the Congolese government.¹¹

In the Security Council, M. Pierre Wigny, the Belgian Foreign Minister, cited numerous reports of rape and other atrocities by Congolese troops against Belgian nationals. He stated that “we had a right to intervene when it was a question of protecting our compatriots, our women, against such excesses. We had the most imperative duty to do so.”¹² He explained that the operation in the Congo was purely humanitarian and strictly proportionate to the objective of protecting Belgian lives,¹³ and that Belgium would withdraw its troops as soon as, and to the extent that, the United Nations effectively ensured the maintenance of order and the safety of all foreigners.¹⁴

On 14 July 1960, the Security Council adopted a resolution calling upon Belgium to withdraw its troops from Congolese territory.¹⁵ Subsequent resolutions urged the Belgian government to withdraw with haste and requested that all States refrain from actions that might undermine Congo’s territorial integrity or political independence.¹⁶

Prime Minister Lumumba of the Congo, in a letter dated 31 July 1960, informed the Security Council that UN troops, with the help of the Congolese army, could protect all foreign nationals removing the need for the Belgian presence.¹⁷ The Security Council thereupon once again demanded that Belgium withdraw its troops from Katanga “under speedy modalities determined by the Secretary-General.”¹⁸

The Belgian actions in the Congo seem to be a legitimate use of force for the protection of nationals. The French, British, and Italian governments all approved and expressed their appreciation.¹⁹ The French representative, M. Berard, stated that “[t]heir mission of protecting lives and property is the direct result of the failure of the Congolese authorities and is in accord with a recognized principle of international law, namely, intervention on humanitarian grounds.”²⁰ Several nations were critical. Predictively, the Soviet Union and several other States, including Tunisia, Poland and Argentina, denounced the protection-of-nationals rationale as a device to mask an illegal armed intervention.²¹

C. France in Mauritania. 1977.

On 1 May 1977, Polisario guerrillas took six French nationals hostage during an attack on the city of Zouérate, an important mining town in northeastern

Mauritania. Over the course of 1977, the rebels made advances and destroyed vital economic centers in Mauritania and on 25 October they took two more French nationals as hostages. Consequently, in November 1977 France sent ten Jaguar bombers to Mauritania in support of the approximately 12,000 French troops who were assisting the Mauritanian army in its fight against the Polisario Front.²² This extensive French military operation in support of the Mauritanian government, known as Operation Lamentin, continued until May 1978.

The first air strikes by the French planes occurred on 12-13 December 1977, after Polisario forces attacked a train carrying iron ore from Zouérate to the port of Nouadhibou. France responded with a second air strike on 18 December after a Polisario assault on a Mauritanian garrison near the border with Western Sahara.²³ On 23 December, negotiations between French officials and Polisario representatives led to the Polisario release of the eight French hostages to UN Secretary-General Kurt Waldheim in Algiers.²⁴

France invoked humanitarian justifications for the air strikes that it had undertaken at the request of the Mauritanian government.²⁵ A letter by M. Jacques Leprette, the French representative to the UN, to the president of the Security Council, stated that “[i]n the face of the persistent threats directed against our compatriots in undisputed Mauritanian territory. . . it is the duty of the French government, as it would be the duty of any Government with respect to its nationals abroad, to provide protection for them.”²⁶ The strikes were dual-purposed. They were a response to the abduction of French nationals, and were also a part of Operation Lamentin to combat the Polisario Front in Mauritania.²⁷ Because no rescue mission occurred, however, the invocation of the forcible-protection doctrine seems primarily a pretext for the French use of force to support the Mauritanian government.

D. France and Belgium in Zaire. 1978.

As in 1964,²⁸ the lives of numerous European citizens, primarily Belgian and French, were put at risk in Katanga during disturbances caused by activities of the “gendarmes kantangais” who fought for the independence of the province.²⁹ On 11-12 May 1978, Katangese rebels had entered the province, arriving from Angola through Zambia, and occupied the city of Kolwezi. During this operation and its aftermath, they killed about 900 people, including an estimated 120 Europeans.³⁰ The lives of French and Belgian citizens, therefore, were obviously endangered.³¹

On 19 May French troops were air-dropped just to the north of Kolwezi, with Belgian troops landing in a separate operation the following day.³² Both

France and Belgium justified their actions as responses to the request for military assistance by the Zairian government.³³ Indeed, Belgian Prime Minister Tindemans actually stated before the Belgian Parliament that Zaire “was a sovereign State where Belgium could not simply interfere at will and that, consequently, an authorization from the Zairian authorities was required before Belgium could proceed with its rescue operation.”³⁴ This statement represents a far more restrictive approach to the forcible-protection-of-nationals doctrine than the Belgian Foreign Minister had taken during the 1960 Congo operation.³⁵ On the other hand, French president Giscard d’Estaing justified the operation as a normal exercise of the legitimate and inalienable right of France to protect its citizens abroad.³⁶

Most Belgian troops withdrew on 22 May, by which time they had evacuated 2,269 people to Europe.³⁷ The French operation, however, continued until 15 June.³⁸ Neither action was debated in the Security Council, although several European countries expressed their appreciation to France and Belgium, implicitly endorsing their actions.³⁹ There seems little doubt that the operations undertaken were justifiable under the protection-of-nationals rationale.

E. France in Mauritania. 1978.

In May 1978, French Jaguar bombers struck Polisario rebels near the city of Zouérate during the final stages of Operation Lamentin. In June 1978, Foreign Minister Louis de Guiringaud of France stressed that the location of the air strikes against the Polisario forces had occurred on Mauritanian territory where French nationals were endangered.⁴⁰ Although the 1978 operation did not involve an evacuation of French nationals, presumably the nationals were indirectly protected by the assistance to the Mauritanian government in opposing the Polisario Front.

As in case of the 1977 French air strikes in Mauritania, discussed in Section C, France did not mount a rescue operation, but rather sought to assist the recognized Mauritanian government against Polisario insurgents through military measures. The 1978 French air strikes, again then appear pretextual if the claim is humanitarian intervention.

F. France in Chad. 1978.

Visible Chadian unrest began in July 1977, mainly in the area of Bardaï in northern Chad, caused by the rebel group Frolinat (Front de libération rationnelle du Tchad).⁴¹ By February 1978, the rebels controlled the strategic cities of

Faya-Largeau and Fada. According to M. Olivier, the French Secretary of State to the Foreign Minister, the 4,000 French nationals in Chad, the majority of whom lived in the capital city N'Djamena, and in southern Chad, were not in immediate danger.⁴² He informed the French Parliament that the Chadian government had extended measures to ensure their safety, with the help of the French "coopérants" who were present in Chad under the terms of a cooperation accord that the two States had signed on 6 March 1976.⁴³

French Cooperation Minister Robert Galley, however, did not rule out the possibility that the Frolinat propaganda campaign being diffused over seized Chadian radio stations might necessitate a rescue operation to evacuate French nationals.⁴⁴ When the rebels approached to within 250 km of N'Djamena in April 1978, he invoked the 1976 cooperation accord to justify any French action taken against the rebellion, which was lead and armed largely from outside the country.⁴⁵ At the request of the Chadian government, France also increased the number of coopérants to help train the Chadian army and sent supplementary units to protect the army training centers.⁴⁶ Altogether, France deployed 2,500 troops to Chad as part of this action, called Operation Tacaud, including a regiment of parachutists, two infantry companies, one Marine infantry company, and several supporting tactical airplanes and Jaguar bombers.⁴⁷ Foreign Minister Guiringaud described their objective as helping the legitimate government find a political compromise to the rebellion.⁴⁸

After three French coopérants were killed, the French government reacted vigorously.⁴⁹ As Foreign Minister Guiringaud indicated, the French presence in Chad was both at the request of the government and because French civilians and coopérants were in danger.⁵⁰ Although French troops closely guarded the army training centers and communities with large concentrations of French nationals,⁵¹ they made no attempt to stage an evacuation. On 27 April, French Jaguars provided air cover to Chadian troops defending the city of Salal,⁵² and on 19 May over 100 French troops gave decisive help to Chadian forces opposing Frolinat advances at Ati.⁵³ French forces lent support to Chadian forces in other battles, although the number of French actively engaged never exceeded 200 to 300 troops.⁵⁴ Because French troops deployed in Operation Tacaud made no effort to evacuate French nationals but, rather simply helped the Chadian army turn back Frolinat rebels in several important battles, to classify the French operation as a case of forcible protection is tenuous.

G. France in Chad. 1979.

The relations between the Chadian government and rebel factions worsened over the winter of 1978-79, so again the Chadian government requested the assistance of France in its defense against armed rebellion.⁵⁵ According to the Minister of Foreign Affairs Louis de Guiringaud, on 15 February France began preparations to evacuate its nationals.⁵⁶ This time, after four French nationals in Chad were killed in the fighting, the French forces in N'Djamena helped repatriate about 2,500 French nationals, virtually the entire French population of Chad. Nationals from many other countries were also repatriated.⁵⁷ Because this operation was carried out exclusively by French "coopérants" already in Chad at the request of its government, this evacuation does not warrant categorization as an instance of forcible protection.

H. France in Mauritania. 1979.

In 1979 France again conducted an air operation over the Mauritanian-ruled area of the Western Sahara. The French Minister of Foreign Affairs Guiringaud advised Parliament that involvement occurred to counter the armed-rebel operations that violated the Mauritanian border and not to target the Saharan people.⁵⁸ "One cannot claim that our military action in Mauritania, which was in conformity with article 51 of the UN Charter in particular, has been contrary to the international obligations of France, nor to the requirements of international law," he stressed.⁵⁹

The government of Mauritania in this instance had requested support from France against outside aggression. Although the French Foreign Minister emphasized that France needed to protect its citizens,⁶⁰ the safety of foreign nationals in Mauritania was, at best, a secondary factor in France's actions. Almost consistently, France's actions are difficult to justify by exclusive reference to the protection-of-nationals-abroad doctrine.

I. France in Gabon. 1990.

Riots erupted in Libreville, the Gabonese capital, when opposition supporters accused the government of having killed Joseph Rendjambe, the leader of the P.G.P. (Parti gabonais du progrès) opposition party, who was found dead on 22 May 1990.⁶¹ Order also collapsed in Port-Gentil, where 10 foreigners, including seven French nationals who were working at the Elf-Aquitaine oil refinery, were taken hostage for 12 hours on 23 May.⁶² On 24 May, France

deployed approximately 600 Marines from their permanent station near Libreville who were there under the terms of a defense and military assistance treaty signed by the two countries on 17 August 1960.⁶³ France dispatched an additional 200 troops to Gabon, including parachutists based at Calvi, in Corsica, and infantrymen based at Nîmes. All these acts were in conformity with the treaty:⁶⁴ which required that the Gabonese government issue a specific request before France could deploy its forward-deployed forces, or introduce new troops into the country.⁶⁵ By 25 May the fighting had largely ceased, and on 29 May oil production resumed at the Elf refinery. The threat to French nationals in Gabon having passed, and on 1 June France withdrew most of its forces.⁶⁶

French Minister of Foreign Affairs Roland Dumas stated that the French mission in Gabon was solely to protect the nearly 2,500 French nationals living in Port-Gentil and to repatriate those who wished to leave.⁶⁷ By the end of the rescue mission, named Operation Requin,⁶⁸ approximately 1,800 French nationals had been evacuated to Paris.⁶⁹ Despite the fact that there may have been other reasons for the French action, the evacuation of over two-thirds of the French nationals living in Port-Gentil identifies this as being a legitimate case of forcible intervention.⁷⁰

J. France and Belgium in Rwanda. 1990.

On 1 October 1990, several thousand armed soldiers of the Rwandan Patriotic Front invaded Rwanda from Uganda. As the rebels approached Kigali, the capital, where they sought to overthrow President Habyarimana, the Rwandan government requested military assistance from France and Belgium.⁷¹ Both countries responded immediately to the request. On 4 October, Belgium dispatched 540 Belgian paratroops and France dispatched 300 French Foreign Legion paratroops to Rwanda,⁷² where approximately 650 French and 1,600 Belgian citizens were living.⁷³ The Rwandan government then specifically asked Belgium to help protect the airport in Kigali. After securing it, the 150 French Foreign Legion troops and 150 Belgian paratroopers⁷⁴ evacuated nearly 1,000 European and US nationals.⁷⁵ Belgium withdrew its troops on 2 November 1990,⁷⁶ with France withdrawing its forces a few weeks thereafter.⁷⁷

Belgian Prime Minister Martens subsequently explained before the Commissions on Foreign Affairs and National Defense of the Belgian Parliament that the government's concern had been the security of the Belgian citizens in Rwanda, which had led to the humanitarian action for their protection and, if they chose to leave, evacuation.⁷⁸ Although the widespread anarchy in

Rwanda led to an extended Belgian and French military presence, their initial actions, taken at the request of the Rwandan government, certainly qualify as a legitimate case of forcible protection.

K. France in Chad. 1990.

On 10 November 1990, the Chadian opposition leader Idriss Déby, formerly the Commander-In-Chief to the dictatorial president Hissène Habré, rebelled against the Habré regime.⁷⁹ France, which considered the affair an internal Chadian matter,⁸⁰ nevertheless proceeded without a request from the Chadian government to transfer a company of 150 parachutists on 16 November from N'Djamena, the capital, to Abéché, in eastern Chad. These men reinforced the 350 French troops stationed there and combined they were expected to ensure the security of French citizens should Déby's forces approach.⁸¹ They achieved this objective. When Abéché fell to the rebels on 29 November, France flew in a company of parachutists from Corsica, as well as Foreign Legion troops from the Central African Republic, to protect both French nationals and other foreigners in N'Djamena⁸² and prepare for their evacuation.⁸³ By early December,⁸⁴ they had evacuated approximately 1,600 foreigners, including between 960 and 1,120 French nationals.⁸⁵ France made no effort to oppose Déby, who, having entered N'Djamena on 1 December, had installed himself as president, Habré having fled the country.⁸⁶

Unlike the 1978 and 1979 French actions in Chad (discussed in Sections F and G respectively), in this instance neither followed a request by the Chadian government nor was it pursuant to the cooperation accord. It surely can be justified under the protection-of-nationals abroad doctrine, however.

L. France and Belgium in Zaire. 1991.

Zairian soldiers mutinied in September 1991 when hyperinflation rendered their paychecks worthless.⁸⁷ Although Europeans were not targets, some of them fell victim to random pillaging. France thereupon dispatched 1,200 Foreign Legion troops aboard military transport planes on loan from the United States; Belgium sent 500 paratroopers.⁸⁸ These forces arrived in Brazzaville, in the Republic of the Congo, on 23 and 24 September and, after crossing the Zaire River, proceeded to Kinshasa, Zaire.⁸⁹

After securing the airport, the forces shuttled French and Belgian nationals from Kinshasa to safety in Brazzaville. They then proceeded to Kolwezi, a large mining center in the Katanga region 1,500 km southeast of Kinshasa.⁹⁰ Their

mission was to begin the evacuation of the 3,500 French nationals and 3,000 Belgians in Zaire,⁹¹ of whom 650 and 2,000 respectively lived in Katanga.⁹² The evacuation of over 9,000 foreign nationals from over 30 European, African and Middle Eastern countries was completed on 2 October.⁹³ This was not a complete evacuation. Some foreigners chose to remain.

Violence in Zaire resumed on 22 October when President Mobutu arbitrarily dismissed Prime Minister Tshisekedi, at which point the Belgian, French and U.S. authorities strongly recommended a complete evacuation. This was done and France withdrew its last soldiers on 31 October, with the last Belgian troops leaving on 4 November 1991.⁹⁴

According to U.S. Secretary of State James Baker, the foreigners' safety had depended on the temporary presence of French and Belgian troops.⁹⁵ While President Mobutu accused France of seeking to destabilize Zaire,⁹⁶ Karl I Bond, then the leader of the United Opposition Parties, acknowledged the humanitarian nature of the rescue operations.⁹⁷ Like the 1978 operation in Zaire (discussed in Section D) the 1991 actions of both France and Belgium in Zaire appear to be a legitimate case of forcible protection.

M. France and Belgium in Zaire. 1993.

In late January 1993, the Zairian army began an armed mutiny, with several foreigners being killed during ensuing riots.⁹⁸ In mysterious circumstances related to the mutiny, the French Ambassador to Zaire, Philippe Barnard, was killed. At the time, 3,000 Belgian and 1,000 French nationals still remained in Zaire. Belgian Minister of Foreign Affairs Willy Claes recommended that Belgians leave the country for Brazzaville, in the Republic of the Congo. The Belgian government also stated that any decision regarding the evacuation of foreign nationals from Zaire would be made in coordination with the other member States of the European Community, and that Belgium and France would furnish the majority of any troops that might be dispatched.⁹⁹ Subsequently, Belgium decided to send 550 troops to Kinshasa. According to Prime Minister Jean-Luc Dehaene, the operation was coordinated with France.¹⁰⁰ Foreign Minister Claes emphasized that the joint action was limited to the evacuation of civilians, primarily the 1,500 Belgians living in Kinshasa.¹⁰¹

While Zairian Prime Minister Tshisekedi, recently reinstated to office, requested Belgian military assistance, President Mobutu strongly opposed any Belgian presence by deploying air-defense forces to the N'Djili airport in Kinshasa to prevent Belgian military planes from landing. Mobutu even put his presidential yacht at the disposal of those foreigners seeking evacuation to

Brazzaville, in an effort to make any Belgian action unnecessary.¹⁰² In any event, the Belgian evacuation forces remained in Brazzaville and never crossed into Zaïre.

On 29 January, however, France deployed 150 Marine infantry troops from their station in Bangui, in the Central African Republic, to Kinshasa via Brazzaville. The same day, 12 of these Marines secured the French Embassy and evacuated 400 French nationals from Kinshasa.¹⁰³ French troops began to withdraw on 4 February after Zairian troops loyal to Mobutu had quelled the mutiny. Belgian forces left Brazzaville the next day. While the latter never actively engaged in any rescue operation, the French did, making their actions seem a proper case of forcible protection. Interestingly, the French justified their involvement on such grounds.

N. Multinational Evacuation Operation in Rwanda. 1994.

Security Council Resolution 872 of 5 October 1993 authorized a 1,000-man multinational force to monitor peace between the Rwandan government and rebel forces.¹⁰⁴ By early April 1994 the UN contingent included 2,500 troops from over 20 countries.¹⁰⁵ When armed bandits threatened to kill any foreigner unable to prove that he was not Belgian¹⁰⁶ and the UN peacekeepers suffered casualties, including 10 Belgian peacekeepers who were hacked to death by Rwandan soldiers,¹⁰⁷ seven Western States organized an operation that began on 8 April, with the purpose of evacuating Rwanda's foreign community.

The number of States involved and the scale of the evacuation effort made the multilateral action in Rwanda unique. France sent 460 troops and five transport planes,¹⁰⁸ while Belgium sent 750 troops (in addition to the 430 Belgian troops already participating in the UN operation)¹⁰⁹ and nine airplanes, including seven C-130 transport planes and two Boeing 747s.¹¹⁰ Italy sent 80 troops and three C-130 transport planes. Germany and Canada each sent one transport plane and the Netherlands sent four planes.¹¹¹ Additionally, the United States kept one ship with 330 Marines on alert off the Kenyan coast and also provided two transport planes to assist in the evacuation.¹¹² By April 15, 1994 Belgian, French and Italian troops had withdrawn after evacuating over 3,900 foreigners from Kigali.¹¹³ Although the number of participating States distinguishes this rescue operation from other ones considered in this chapter, in essence it constituted a legitimate case of collective, albeit not UN, forcible protection.

O. France in the Central African Republic. 1996.

On 19 May 1996, fighting broke out in Bangui, the capital of the Central African Republic, between government forces and mutineers who were protesting a governmental decision to place the armory under the command of the presidential guard.¹¹⁴ At the behest of President Félix Patassé, France initially deployed 800 troops of its 1,400 troops currently stationed in the country to Bangui.¹¹⁵ On 20 May, these forces were supplemented with 550 members of the French Foreign Legion and additional French paratroopers stationed in Gabon.¹¹⁶

The stated mission of the French forces was to protect the 2,500 French nationals in the country, 1,500 of whom were in Bangui. By 23 May, however, the situation had so deteriorated that M. Jacques Godfrain, French Minister of Co-operation, announced that the objectives of Operation Almandin II had been expanded to include protecting the democratically-elected government of President Patassé.¹¹⁷ French Defense Minister Charles Millon justified this decision under the defense agreement with Central African Republic.¹¹⁸

France received political support of its expanded mission from Cameroon, Gabon, and Senegal, all of which are former French colonies with democratically-elected presidents.¹¹⁹ In the streets of Bangui, however, French forces faced violent protests against their efforts to support President Patassé. Nevertheless, France eventually employed 2,300 troops to evacuate 3,000 foreigners, primarily French but also including US, Japanese, and Lebanese nationals.¹²⁰ Because the French actions were in response to an invitation by the President of the Central African Republic and consistent with the defense agreement between the two countries, they shed little light on the forcible-protection-of-nationals-abroad doctrine per se.

NOTES*

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1. The situation in the Congo (Belgian and US rescue operations) and the Israeli raid on Entebbe in 1976 are not considered in this Chapter, but are discussed in the Conclusion. Other instances that have been mentioned in the literature provide little guidance because protection of nationals abroad arguments either were not raised or were not relevant. See, e.g., *Loyola*, 1976, where French citizens, taken hostage in Somalia, were freed when French soldiers responded to Somali fire but remained within the territory of Djibouti, then a French colony; *Mogadishu*, 1977, where the Somali government consented to the use of German commando units to rescue German citizens taken hostage on a Lufthansa airplane; *Lamaca*, 1978, where Egypt did not

invoke the protection of nationals rationale to justify its operation in Cyprus to rescue Egyptians taken hostage aboard a Cypriot airplane, but simply explained its action as necessary to fight terrorism; and *Bangkok*, 1981, where Thai authorities permitted Indonesian forces to storm an Indonesian airplane to rescue civilians taken hostage by terrorists.

2. See *infra* text accompanying notes 4-8.

3. For an instructive account of the political context of the French, Belgian and British military presence in Africa, see generally A. Rouvez, *Disconsolate Empires* (1994).

4. 558 Parl. Deb., H.C. (5th ser.) 1565 (1956).

5. *Id.* at 1566.

6. *Id.*

7. *Id.*

8. 11 U.N. SCOR (749th mtg.) at 24, U.N. Doc. S/P.V. 749 (1956).

9. Higgins, *International Law and Civil Conflict*, in *The International Regulation of Civil Wars* 169, 175-76 (E. Luard ed. 1972).

10. 15 U.N. SCOR (873d mtg.) at 34-35, U.N. Doc. S/P.V. 873 (1960).

11. 15 U.N. SCOR Supp. (Jan.-Dec.) at 11, U.N. Doc. S/4382 (1960).

12. 15 U.N. SCOR (877th mtg.) at 18, U.N. Doc. S/P.V. 877 (1960).

13. *Id.* at 30. The Belgian representative to the Security Council cited the fact that Belgium had only 1,400 troops present in Leopoldville as evidence that Belgian objectives did not extend beyond the protection of its nationals, since the number of troops would have been insufficient to subdue and control that city's population of 350,000. *Id.* at 29.

14. *Id.* at 30.

15. S.C. Res. S/4387, 15 U.N. SCOR Supp. (Jan.-Dec.) at 16, U.N. Doc. S/P.V. 873 (1960).

16. S.C. Res. S/4405, 15 U.N. SCOR Supp. (Jan.-Dec.) at 34-35, U.N. Doc. S/P.V. 879 (1960). The Secretary-General, reporting on the implementation of these resolutions, referred to a letter of the Belgian Foreign Minister that summarized the position of his government regarding the legal justification for the intervention:

Belgian troops were obliged to intervene solely in order to save the lives of fellow-countrymen who were in great danger, lacking any of the protection which a State must afford to private individuals.

This intervention implies no interference in the internal affairs of the Congo. It is temporary in nature.

These rescue duties come to an end as soon as United Nations troops arrive in a given region to take over and, at the same time, to assume responsibility for the safety of individuals.

Second Report of the Secretary-General on the Implementation of Security Council Resolutions S/4387 of 14 July 1960 and S/4405 of 22 July 1960, 15 U.N. SCOR Supp. (Jan.-Dec.) at 48, U.N. Doc. S/4417 (incorporating Doc. S/4417 Corr.1) (1960).

17. 15 U.N. SCOR Supp. (Jan.-Dec.) at 38-39, U.N. Doc. S/4414 (1960).

18. S.C. Res. S/4426, 15 U.N. SCOR Supp. (Jan.-Dec.) at 92, U.N. Doc. S/P.V. 886 /d (1960).

19. For praise of Belgian efforts in the Congo by the French representative to the UN, see 15 U.N. SCOR (873d mtg.) at 27-28, U.N. Doc. S/P.V. 873 (1960); for approval by the British representative, see *id.* at 25-27; and, for approval by the Italian representative, see *id.* at 22-25.

20. *Id.* at 28.

21. *Id.* at 37 (Soviet representative); *id.* at 12 (Tunisian representative); *id.* at 30 (Polish representative); and *id.* at 32 (Argentine representative).

22. Rouvez, *supra* note 3, at 167.
23. *Id.*
24. *Les otages du Polisario sont libérés: M. Waldheim les reconduit d'Alger à Paris*, Le Monde, Dec. 24, 1977, at 1, col. 6.
25. 32 U.N. SCOR Supp. (Oct.-Dec.) at 103, U.N. Doc. S/12503 (1977).
26. *Id.*
27. Rouvez, *supra* note 3, at 167-68.
28. For a description of the 1964 US-Belgian intervention in the Congo, see Chapter IV, Section B.
29. C. Alibert, *Du Droit de se faire justice dans la société internationale depuis 1945*, at 253 (1983).
30. Rouvez, *supra* note 3, at 336.
31. French President Giscard d'Estaing estimated the composition of the European population in Kolwezi to be about 1,700 Belgians, 400 French, 150 Italians, 150 British, 150 Greeks and a few other foreign nationals. Manin, *L'Intervention française au Shaba*, 1978 *Annuaire Français de Droit International* 159, 165. The Belgian Prime Minister Léo Tindemans stated that 1,800 Belgians lived in Kolwezi and more than 6,000 in the province of Katanga. Salmon & Vincineau, *La pratique du pouvoir exécutif et le contrôle des chambres législatives en matière de droit international* (1977~1978), 15 *Revue Belge de droit international* 433, 633 (1980), citing A.P., Sénat, séance du 22 mai 1978, at 1424,-25 and A.P., Chambre, 22 mai 1978, at 2113. Underscoring the purely humanitarian nature of the rescue operation that eventually took place, the Belgian Prime Minister also asserted that Belgium would not leave behind nationals of other countries who wished to leave Kolwezi. *Id.*
32. As in the Congo in 1964, both the French and the Belgians were supported by the United States, which furnished logistical assistance and C-141 planes. These US airplanes were used for the long-range transport of heavy equipment, such as helicopters and mobile refueling units, thereby greatly facilitating French and Belgian evacuation efforts. See Rouvez, *supra* note 3, at 338.
33. Manin, *supra* note 31, at 171.
34. Salmon & Vincineau, *supra* note 31, at 632, quoting A.P. Sénat, séance du 22 mai 1978, at 1424-25 (author's translation).
35. See *supra* text accompanying note 12.
36. Manin, *supra* note 31, at 169.
37. Rouvez, *supra* note 3, at 336. No figures are available as to the nationalities of the people evacuated by the Belgians.
38. No figures are available as to the number or nationalities of the people evacuated by the French.
39. See, e.g., Secretary of State Genscher: "[T]he [German] federal government has . . . expressly, and as one of the first, expressed its thankfulness towards the French and Belgian governments for their commitment to the saving of lives." 93. Sitzung, den 1. Juni 1978, Verhandlungen des Deutschen Bundestages, 8. Wahlperiode, Stenografische Berichte, Band 106, Plenarprotokolle 8/87-8/101, 26 Apr.-23 Jun. 1978, at 7320.
40. Guiringaud, Minister of Foreign Affairs, J.O. Sénat, séance du 16 juin 1978, at 1448. Article 3 of the Convention of Military Training Between France and Mauritania, signed on 10 and 27 December 1977, provided that French troops in Mauritania remained under French jurisdiction but "could not in any case be associated with the preparation or execution of war operations, or with the maintenance of order." J.O. du 6 novembre 1985, at

12,480. This treaty makes no mention of the use of French troops in Mauritania to protect French nationals.

41. For a description of France's strategic interests in Chad and the Cold War context, see Rouvez, *supra* note 3, at 151-64.

42. J.O. Sénat, séance du 19 mai 1978, at 892.

43. *Id.* "Coopérant" refers to French military personnel who are stationed in, and provide technical assistance to, States with which France has cooperation agreements. Although coopérants come from all branches of the French military, the majority are from the Army.

44. *Id.*

45. J.O. Sénat, séance du 12 mai 1978, at 817.

46. *Id.*

47. Rouvez, *supra* note 3, at 154.

48. J.O. Sénat, séance du 16 juin 1978, at 1448.

49. *Id.* at 1446.

50. *Id.* at 1448.

51. *Id.*

52. *Id.*

53. J.O. Assemblée Nationale, 3e séance du 9 novembre 1978, at 7417.

54. J.O. Sénat, séance du 16 juin 1978, at 1448.

55. J.O. Assemblée Nationale, 3e séance du 9 novembre 1978, at 7417.

56. Charpentier, *Pratique française du droit international*, 1979 *Annuaire Français de Droit International* 905, 908, citing 'Réponse du Ministre des Affaires Etrangères à Q.E Vivien, no. 14007,' J.O. Assemblée Nationale, 10 mai 1979, at 3612.

57. *Id.* No figures are available as to the number or nationalities of the other foreigners evacuated by the French.

58. Response to question of Mr. Odru, no. 3859, J.O. Assemblée Nationale, séance du 6 avril 1979, at 2438.

59. *Id.* (author's translation). For a discussion of the defense cooperation agreement between France and Mauritania, see *supra* text accompanying note 40.

60. Response of the Minister of Foreign Affairs to Mr. Vivien, no. 9548, and to Mr. Odru, no. 5239, J.O. Assemblée Nationale, séance du 3 mars 1979, at 1380.

61. Rouvez, *supra* note 3, at 180.

62. Gabon: émeutes et pillages à Libreville et à Port-Gentil, *Le Monde*, May 26, 1990, at 3, cols. 1-5.

63. *Renforts français au Gabon*, *Le Monde*, May 25, 1990, at 1, col. 6. The Franco-Gabonese defense accord had been revised in 1974. Rousseau, *Chronique des faits internationaux*, 94 R.G.D.I.P. 1035, 1071 (1990).

64. Rousseau, *supra* note 63.

65. Deux accords de sécurité avec Paris, *Le Monde*, May 26, 1990, at 3, cols. 3-4.

66. Rouvez, *supra* note 3, at 181.

67. *Plus des deux tiers des Français ont quitté Port-Gentil*, *Le Monde*, May 29, 1990, at 7, cols. 1-4.

68. Guérivière, *Mission presque accomplie*, *Le Monde*, June 1, 1990, at 6, cols. 3-6.

69. *Le Monde*, *supra* note 67.

70. No figures are available as to the nationalities of other foreigners evacuated by the French.

71. *Des accrochages entre forces régulières et rebelles on eu lieu dans la capitale, Kigali*, *Le Monde*, Oct. 6, 1990, at 4, cols. 3-6. Rwanda did not have a defense accord with either France or

Belgium, although approximately 20 Belgian troops were stationed in the country to provide logistical assistance. Guérivière, *Le geste "humanitaire" de la Belgique*, *Le Monde*, Oct. 6, 1990, at 4, col. 3.

72. Rouvez, *supra* note 3, at 343. The French Foreign Legion troops were flown to Rwanda from their station in Bangui, in the Central African Republic. *Des accrochages entre forces régulières et rebelles on eu lieu dans la capitale, Kigali*, *Le Monde*, *supra* note 71.

73. *Des accrochages entre forces régulières et rebelles on eu lieu dans la capitale, Kigali*, *Le Monde*, *supra* note 71.

74. Rousseau, *Chronique des faits internationaux*, 95 R.G.D. I. P. 439, 479 (1990).

75. *Foreign Missions In African Lands*, *N.Y. Times*, Apr. 11, 1994, at A13, col. 1. No breakdown of this figure by nationalities is available.

76. Vincineau & Ergec, *La pratique du pouvoir exécutif et le contrôle des chambres législatives en matière de droit international* (1988-1990), 24 *Revue Belge de droit international* 132, 208 (1991).

77. Rousseau, *Chronique des faits internationaux*, 95 R.G.D.I.P. 721, 746 (1991). When rebels seized part of the city of Ruhengeri near the Ugandan border on 22 June 1991, 100 French paratroopers returned to Rwanda to evacuate French nationals and other foreigners. Rouvez, *supra* note 3, at 345.

78. Vincineau & Ergec, *supra* note 76, at 207-08, citing A.P., *Chambre*, 6 octobre 1990, at 3-4.

79. *L'entre-deux-guerres*, *Le Monde*, Dec. 4, 1990, at 3, cols. 5-6.

80. Rouvez, *supra* note 3, at 163.

81. *La France renforce son dispositif "Epervier" au Tchad*, *Le Monde*, Nov. 17, 1990, at 36, col. 4.

82. Rouvez, *supra* note 3, at 163.

83. *'On a laissé faire Idriss Déby' reconnaît le ministre français de la coopération*, *Le Monde*, Dec. 5, 1990, at 4, cols. 4-6.

84. Rouvez, *supra* note 3, at 163.

85. *Le Monde*, *supra* note 83. No figures are available as to the number or nationalities of the people evacuated by the French.

86. *Décembre 1990 dans le monde*, *Le Monde*, Jan. 9, 1991, at 14, cols. 1-4.

87. Hearing Before the Subcomm. on African Affairs of the Senate Comm. on Foreign Relations, 102d Cong., 1st Sess. 2 (1991) (Statement of Herman J. Cohen, Assistant Secretary of State for African Affairs) [hereinafter Hearing].

88. *N.Y. Times*, *supra* note 75.

89. Le président Mobutu demande aux militaires de rentrer dans les casernes, *Agence France Presse*, Sept. 25, 1991, available in LEXIS, Europe Library, Presse File.

90. *Id.*

91. Rousseau, *Chronique des faits internationaux* 96 R.G.D.I.P. 369, 403 (1992).

92. *Supra* note 89.

93. Stegic, *Un deuxième français tué à Kinshasa*, *Agence France Presse*, Jan. 29, 1993, available in LEXIS, Europe Library, Presse File. Specific figures as to the number or nationalities of the people evacuated are unavailable for either the French or Belgian rescue operations.

94. *Supra* note 89.

95. Hearing, *supra* note 87, at 3.

96. *Supra* note 93.

97. *Supra* note 89.

98. *Supra* note 93.

99. Navarro, *La garde présidentielle prend le contrôle d'une partie de Kinshasa*, selon Bruxelles, *Agence France Presse*, Jan. 29, 1993, available in LEXIS, Europe Library, Presse File.

100. *Id.*
101. *Id.*
102. Rouvez, *supra* note 3, at 352.
103. *Id.*
104. 48 U.N. SCOR (3288th mtg.) at 102, U.N. Doc. S/INF/49 (1993).
105. The number of UN peacekeepers had been increased pursuant to Security Council Resolution 893, which was adopted on 6 January 1994. S.C. Res. 893, 49 U.N. SCOR (3326th mtg.), U.N. Doc. S/Res/893 (1994).
106. Most Foreigners out of Rwanda, AP Online, Apr. 15, 1994, *available in* LEXIS, News Library, Arcnws File.
107. Belgium admits it had more troops in Rwanda, Reuters World Service, Apr. 16, 1994, *available in* LEXIS, News Library, Arcnws File.
108. Rouvez, *supra* note 3, at 355. However, the *N.Y Times*, *supra* note 75, reported that France sent 700 troops to Rwanda to protect foreigners.
109. Reuters World Service, Apr. 16, 1994, *supra* note 107. Rwanda, however, only had given permission for Belgium to send 400 paratroopers, according to Belgian Colonel Gilbert Hertoghe. *Id.*
110. Rouvez, *supra* note 3, at 355.
111. *Id.*
112. *Id.*
113. Rwanda Slaughter Continues, AP Online, Apr. 15, 1994, *available in* LEXIS, News Library, Arcnws File. According to a Belgian government source, it was unclear how many foreigners chose to remain in Rwanda. Shaw, Most Foreigners out of Rwanda, Rebels threaten Foreign Troops, AP WorldStream, Apr. 15, 1996, *available in* LEXIS, News Library, Arcnws File. Figures are unavailable as to the nationality of the evacuees.
114. Paris says 'necessary measures' taken in Bangui, Reuters World Service, May 19, 1996, *available in* LEXIS, News Library, Crnws File.
115. These 1,400 French troops were present in the Central African Republic according to the terms of a 1960 defense treaty between the two countries. Representing the second largest permanent French military presence in Africa, after that in Djibouti, they were not authorized to participate in the maintenance of law and order, but were permitted to protect foreign nationals. *1,400 soldats français*, Le Monde, May 21, 1996, at 4, cols. 2-3.
116. France sends more troops to Central African Republic, Deutsche Presse-Agentur, May 20, 1996, *available in* LEXIS, News Library, Crnws File.
117. *US, French Troops Protect Westerners Caught in Mutiny*, Wash. Post, May 23, 1996, at A38, cols. 3-4. President Patassé was elected in 1993 in the Central African Republic's first free elections. *Mutiny Rocks Africa Republic: US, French Evacuate Capital*, Newsday, May 22, 1996, *available in* LEXIS, News Library, Crnws File. The Minister of Cooperation stated that France had a duty to honor the request for assistance from President Patassé based on the defense agreement between the two countries. *See* Le Monde, *supra* note 115. This agreement, however, like many such agreements between France and its former African colonies, provides that the purpose of the French presence in the country is to protect foreign nationals by taking positions around sensitive points such as airports, and to assist the Central African Republic against external aggression. *Id.* Nevertheless, Minister of Cooperation Jacques Godfrain declared in 1995 that France now "[w]ill intervene [in Africa] each time an elected democratic power is overthrown by a *coup d'état* if a military cooperation agreement exists."

French, *France's Army Keeps Grip in African Ex-Colonies*, N.Y. Times, May 22, 1996, at A3, cols. 1-4.

118. M. Millon: 'assurer la libre circulation et la sécurité,' Agence France Presse, May 20, 1996, *available in* LEXIS, Europe Library, Presse File.

119. Intervention militaire française a Bangui: Les expatriés quittent le Centrafrique, *Le Monde*, May 24, 1996, at 1, cols. 5-6.

120. Specific figures as to the number or nationalities of the people evacuated are unavailable for the French rescue operation.